

Recreation Fees Under the Federal Lands Recreation Enhancement Act

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Summary

The Federal Lands Recreation Enhancement Act (FLREA in P.L. 108-447) established a new recreation fee program for five federal agencies—the Bureau of Reclamation (Reclamation), National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM) in the Department of the Interior (DOI) and the Forest Service (FS) in the Department of Agriculture (USDA). The law authorizes these agencies to charge fees at recreation sites through December 8, 2014. It provides for different kinds of fees, criteria for charging fees, public participation in determining fees, and the establishment of a national recreation pass. The agencies can use the collections without further appropriation. Most of the money is for improvements at the collecting site, such as operation, maintenance, and capital improvement projects. This program supersedes, and seeks to improve upon, the Recreational Fee Demonstration Program.

The extent of participation in the current fee program varies considerably among the agencies, ranging from fee collection at only one Reclamation site to 4,185 FS sites. The agencies conducted analyses of the extent to which sites charging fees under the former fee program meet the criteria and prohibitions of the FLREA for charging entry, standard amenity, and expanded amenity fees. The NPS and FWS made little change in fees and fee sites as a result of the new law. The BLM made some adjustments, while the FS made the most changes, initially dropping fees at 437 sites. The agencies are determining fee sites and setting fees with public input, with the BLM and the FS using Recreation Resource Advisory Committees for this purpose.

A new national recreation pass became available in January 2007. There are different versions of the pass for seniors, disabled persons, volunteers at recreation sites, and the general public.

In FY2009, the agencies collected a total of \$258.4 million in recreation receipts under the FLREA, with the NPS collecting about two-thirds of the revenue. Together with fees carried over from previous years, \$574.4 million was available for obligation in FY2009. For the first time since the collection of recreation fees under the former fee program, more than 50% of available funding was obligated in FY2009.

Recreation fees have been controversial for decades, and there continues to be a difference of opinion as to the need for recreation fees and how fee programs should operate. The current program has supporters and critics. Many assert that the program improves recreation and visitor services, keeping most fees on-site for improvements that visitors desire. Supporters contend that the current program improves upon the former one, in allowing fees to be charged only in appropriate circumstances, setting fair and similar fees among agencies, providing for public involvement in setting fees, and establishing a single national pass. Some critics continue to oppose recreation fees in general, or believe that they are appropriate for fewer agencies or types of lands. Others find fault with the current program, for instance, for not simplifying fees enough, ensuring that most fees are used to reduce the maintenance backlogs of agencies, or obligating funds more quickly. Still others contend that it is difficult to implement one national pass, given differences in agency lands and issues regarding pricing and sharing of revenues.

Congress continues to oversee agency efforts to establish, collect, and spend recreation fees under the FLREA. Issues regarding the structure of the program—whether to let the program expire in 2014, or whether to extend it or make it permanent—will likely be addressed in congressional deliberations.

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Introduction and Background

The 108th Congress established a new recreation fee program for the Bureau of Reclamation (Reclamation) and the four major federal land management agencies—the National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM) in the Department of the Interior (DOI), and the Forest Service (FS) in the Department of Agriculture (USDA). The Federal Lands Recreation Enhancement Act (FLREA)¹ authorizes the agencies to charge and collect fees at federal recreational lands and waters. The act authorizes different kinds of fees, outlines criteria for establishing fees, and prohibits charging fees for certain activities or services. The agencies can spend the revenue collected without further appropriation, with most of the money retained at the collection site, and the collections can be used for specified purposes. The act also authorizes an interagency pass that can be used at federal recreation sites throughout the nation, as well as regional multi-entity passes. The program is to terminate 10 years after enactment—on December 8, 2014.

This new recreation fee program supersedes an earlier one, the Recreational Fee Demonstration Program (“Fee Demo”), which began in 1996 as a three-year trial but was extended several times. That program had allowed the four land management agencies, but not Reclamation, to test the feasibility of charging fees to generate revenues for improvements at recreation sites. While the number of fee sites was limited initially, the agencies ultimately were allowed to establish any number of fee sites, set fee levels, and retain and spend the revenue collected without further appropriation. At least 80% of the revenue had to be retained and used at the site where it was generated, and agencies had wide latitude to spend the funds on purposes specified in law.

The extent to which fees should be charged for recreation has been controversial for decades, and the Fee Demo program had both supporters and critics. It was supported in part for generating revenue; providing flexibility in setting fees and using revenues; having the direct beneficiaries of recreation pay more for benefits; deterring criminal activity, such as littering and vandalism; and ameliorating damage where it did occur. However, the Fee Demo program was criticized as doubly taxing the recreating public; resulting in unfair and confusing fees in some areas; promoting commercial development that damaged federal lands; and discriminating against lower-income people, rural residents, and low-impact recreation. Still other criticisms pertained to program implementation, including the high cost of fee collection and a lack of consistency in implementation within and across agencies.

The current recreation fee program is expected to continue to provide incentives for agency managers to charge and use fees for onsite improvements. Prior to Fee Demo, the agencies had little incentive to develop, monitor, and evaluate fee collection since most fees went to the General Fund of the Treasury;² the agencies could not retain them for resource improvements or management activities. FLREA monies, like Fee Demo collections, are intended to supplement appropriations. In general, recreation fees have represented a small portion of each agency’s overall financing, with the bulk of agency monies coming from appropriated funds.³ The agencies anticipate collecting about \$265 million in fees in FY2011, with NPS collections accounting for

¹ The Federal Lands Recreation Enhancement Act was enacted on December 8, 2004, as Title VIII of Division J of P.L. 108-447, the Consolidated Appropriations Act for FY2005.

² In 1964, Congress had authorized the four land management agencies to collect recreation fees through the Land and Water Conservation Fund (LWCF) Act. For more information on LWCF, see CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Current Issues*, by Carol Hardy Vincent.

³ For more information on appropriations for the federal land management agencies, see CRS Report R41258, *Interior, Environment, and Related Agencies: FY2011 Appropriations*, coordinated by Carol Hardy Vincent.

about two-thirds of the total. While the fees collected are small relative to total agency funding, the agencies have noted their importance in making improvements at federal recreation sites.⁴

Congress had considered whether to let the Fee Demo program expire, extend it, or make it permanent, and how to structure any extended or permanent program. Central to the debate was which agencies or types of lands to include in a fee program, and how to determine fee amounts, collect fees, and spend collections. In enacting the FLREA, Congress created a 10-year program, and extended it to Reclamation. Congress sought to eliminate some of the concerns with Fee Demo, in part by simplifying and standardizing the types of fees, authorizing an interagency recreation pass, and providing for public input in establishing fee locations and amounts.

The balance of this report first provides an overview of key provisions of the FLREA. They include the types of fees allowed, use of fee receipts, public input in determining fees, and the authority for a national recreation pass. The report next focuses on issues related to the implementation of the FLREA. They involve the use of advisory committees to provide input on fees, the establishment of the national recreation pass, the extent of agency participation in the recreation fee program, and the collection and use of fee receipts.

Fees

In enacting the FLREA, Congress sought to reduce or eliminate duplication, inconsistency, and confusion over determining and collecting fees. The law seeks to standardize the types of recreation fees across agencies, differentiate among different types of fees, and minimize the situations where multiple fees can be charged. To alleviate concerns that past fees had been charged for non-developed areas, the law outlines areas and circumstances where fees can and cannot be charged, in some cases specifying the level of services needed to charge a fee. Another objective of the law is to enhance public involvement in determining fee sites and setting fees.

Types of Fees

The FLREA provides guidance on establishing entrance, standard amenity, expanded amenity, and special recreation permit fees. An entrance fee may be charged for units managed by the NPS and FWS only, on the grounds that recreation fees at these agencies have enjoyed widespread support and the lands typically have certain kinds of infrastructure and services. The law explicitly states that the BLM, Reclamation, and FS may not charge entrance fees. Rather, these agencies may charge “standard amenity fees” in areas or circumstances where a certain level of services or facilities is available. Specifically, these agencies may charge standard amenity fees at

- a National Conservation Area;
- a National Volcanic Monument;
- a destination visitor or interpretive center that provides a broad range of interpretive services, programs, and media;

⁴ Examples of “accomplishments” with recreation fees are contained the DOI/FS reports to Congress which are required every three years by the FLREA. They are the: U.S. Dept. of the Interior and U.S. Dept. of Agriculture, *Federal Lands Recreation Enhancement Act: First Triennial Report to Congress, Fiscal Year 2006*, (Washington, DC: May 2006), 82 pp., available on the DOI website at <http://www.doi.gov/initiatives/final.pdf>, and hereafter cited as the *First Triennial Report*; and the U.S. Dept. of the Interior and U.S. Dept. of Agriculture, *Federal Lands Recreation Enhancement Act: Second Triennial Report to Congress, 2009*, (Washington, DC: June 2009), 66 pp., available on the FS website at <http://www.fs.fed.us/passespermits/09-report-to-congress.shtml> and hereafter cited as the *Second Triennial Report*.

- an area that provides significant opportunities for outdoor recreation, has substantial federal investments, where fees can be collected efficiently, and that contains all of the following amenities:
 - designated developed parking,
 - permanent toilet facility,
 - permanent trash receptacle,
 - interpretive sign, exhibit, or kiosk,
 - picnic tables, and
 - security services.⁵

All five agencies also may charge an “expanded amenity fee,” on the grounds that some extra fee for specialized services is fair and equitable. The NPS and FWS may charge such a fee when a visitor uses a specific or specialized facility, equipment, or service. The fee may be in addition to an entrance fee or may be the sole fee. The BLM, Reclamation, and FS may charge an expanded amenity fee only for specified facilities and services, such as use of developed campgrounds or developed swimming sites that provide at least a majority of services identified in the law; use of transportation services; rental of cabins, boats, and historic structures; and participation in special tours.

The FLREA prohibits the BLM, Reclamation, and FS from charging standard or expanded amenity fees for certain activities and services, such as for parking or picnicking along roads or trail sides, accessing dispersed areas with low or no investment (unless specifically authorized in the law), passing through areas without using facilities and services, and using scenic overlooks. In addition, the law specifies places where entrance and standard fees may not be charged—for example, at NPS units within the District of Columbia. It also bars fees from being charged to certain persons, such as those under 16 years old, or for certain purposes, including outings for noncommercial educational purposes by schools and academic institutions.

Further, the DOI and USDA Secretaries may charge a special recreation permit fee in connection with a special permit issued for specialized recreation at lands and waters of any of the five agencies. Specialized recreation includes group activities, recreation events, and use of motorized recreational vehicles.

Criteria for Establishing Fees

To promote fair and consistent fees among agencies and locations, the FLREA provides criteria for establishing recreation fees. For instance, they are to be commensurate with the benefits and services provided, and the Secretaries are to consider comparable fees charged elsewhere, such as by nearby private providers of recreation services. To minimize confusion, burden, and overlap of fees, the Secretaries are to consider the aggregate effect of recreation fees on recreation users and providers. They are to establish the minimum number of fees and avoid collecting multiple or layered fees for similar purposes. In establishing new fees and fee sites, the Secretaries are to obtain input from Recreation Resource Advisory Committees (“Recreation RACs”; see below).

Retention, Use, and Enforcement of Fees

The law allows each agency to retain and spend the revenue collected without further appropriation. Each agency’s collections are to be deposited into a special account in the

⁵ P.L. 108-447, Division J, Title VIII, §3(f).

Treasury. In general, at least 80% of the revenue collected is to be retained and used at the site where it was generated. However, the Secretaries of DOI and USDA can reduce that amount to not less than 60% for a fiscal year, if collections exceed reasonable needs. This provision seeks to provide agencies with flexibility in using their revenues, in part to address high-priority needs at areas that do not collect enough revenue. The remaining collections are to be used agency-wide, at the discretion of the agency. However, the law contains other provisions for the distribution of certain collections, including from the sale of the national recreation pass and regional multi-entity passes.

The agencies have broad discretion in using revenues for purposes specified in the FLREA, which aim to benefit visitors directly. They include facility maintenance, repair, and enhancement; interpretation and visitor services; signs; certain habitat restoration; law enforcement; operation of the recreation fee program; and fee management agreements. The Secretaries may not use collections for employee bonuses or biological monitoring under the Endangered Species Act. Further, the Secretaries may not use more than “an average” of 15% of collections for program administration, overhead, and indirect costs. Under the Fee Demo program, agencies reported that a majority of fees were spent on deferred maintenance and various visitor services.

The FLREA continues a requirement that the Secretaries enforce the payment of fees. It authorizes penalties for nonpayment, with the fine for the first offense capped at \$100.

Public Participation and Collaboration

The Secretaries must provide an opportunity for public participation in establishing fees under the FLREA. For instance, they are to publish a notice in the *Federal Register* regarding a new fee area six months before its establishment. In addition, for each BLM and FS state or region, the Secretaries are to appoint Recreation RACs to make recommendations regarding standard and expanded amenity fees in accordance with specified procedures. The Secretary may establish as many Recreation RACs in a state or region as necessary. If rejecting a fee recommendation, the Secretary is to notify the House Natural Resources and Senate Energy and Natural Resources Committees of the reasons at least 30 days before implementing a decision.

Each Recreation RAC is to be composed of 11 members and broadly representative of the recreation community, as specified in the law. Each Recreation RAC is to include five people who represent various types of recreation users, such as summer nonmotorized recreation; three people who represent different types of interest groups, such as motorized outfitters and guides; a state tourism official to represent the state; a representative of affected Indian tribes; and a representative of local governments. The Secretaries may appoint members from nominations by governors and designated county officials, but are not to establish Recreation RACs if there is insufficient interest to ensure a balance of views. Also, in lieu of creating Recreation RACs, the Secretaries may use RACs established under other authorities (e.g., the RACs established under the grazing regulations.)

The Secretaries are to post notices of fees in areas where fees are being charged, as well as in publications distributed in the area. To the extent practicable, the Secretaries also are to post notices in areas where work is being performed using collections. Communication on how fees are spent is thought to enhance public acceptance of fees.

The law provides for collaboration with other federal and nonfederal entities, with a goal of greater convenience to the public and improved efficiency for the agencies. It authorizes the Secretaries to enter into contracts for various purposes, such as fee collection and processing

services and emergency medical services. States or subdivisions of states that enter into such agreements may share in the revenues collected.

Recreation Passes

The law authorizes the establishment of a national pass for recreation at a variety of sites managed by different agencies. One goal is to facilitate recreation by consolidating existing passes and reducing confusion over which passes can be accepted where. Another is to increase the convenience of visiting adjacent sites managed by different agencies. Specifically, the “America the Beautiful – the National Parks and Federal Recreational Lands Pass” is to cover the entrance fee and standard amenity fee at all areas where such fees are charged.⁶ The Secretaries are to establish the price of the pass, which generally is to be valid for one year. However, they are to provide free or reduced-cost passes to certain individuals, such as volunteers and senior or disabled visitors, and may provide for a discounted or free day for visitors generally. They are to issue guidelines on administering the pass, including on sharing costs and revenues among the agencies. Further, the Secretaries may enter into cooperative agreements with governmental and nongovernmental entities for developing and implementing the pass program.

The law also provides authority to develop site-specific and regional multi-entity passes. A site-specific pass is to cover the entrance or standard amenity fee for a particular site for up to a year. A regional multi-entity pass is to be accepted by one or more of the five agencies or one or more governmental or nongovernmental entities. In establishing multi-entity passes, the Secretary is to enter into an agreement with all participating agencies or entities as to the price of the pass and the sharing of costs and revenues, among other issues.

Support and Opposition

Many assert that the recreation fee program improves recreation and visitor services, and is needed to supplement appropriations. They believe that the program retains the benefits of the former Fee Demo program, such as keeping most fees on-site to provide improvements desired by visitors. They also contend that the current program improves upon the former one, for example, by seeking to establish fair and similar fees among agencies. The criteria in the FLREA for determining fees are intended to ensure that they are charged in appropriate circumstances, namely, where infrastructure and services directly benefit the public. Among other improvements, fee supporters note that the current program provides for more public involvement in determining fee sites and setting fees (e.g., through RACs) and for increased coordination with local communities (e.g., through fee management agreements). They also view the establishment of a single national pass as increasing consistency, convenience, and clarity.

However, some concerns with recreation fees continue to be expressed. They include concerns that the program does not go far enough in simplifying fees, that it does not allow for fee experimentation to adapt to change, and that it fails to ensure that most collections will be used for maintenance backlogs of agencies, which many regard as a priority. Other concerns are that federal lands will be overdeveloped to attract fee-paying tourists, and that one national pass is difficult to implement given differences in agency lands and complex issues regarding pricing and sharing revenues. Some charge that the authority to reduce the funds a site retains to 60% could make planning difficult, reduce incentives to collect fees, and weaken visitor support for fees.

Other critics continue to oppose recreation fees in general, asserting, among other reasons, that appropriations should cover the costs of operating and maintaining federal lands or that they

⁶ This pass often is referred to solely as the “America the Beautiful Pass.”

might be reduced because fees are available. Some counties and states have passed resolutions opposing recreation fees and seeking to repeal the FLREA. A continuing issue is which agencies and types of lands should be in the fee program. A pending Senate bill, S. 868, would repeal the FLREA and establish entrance and use fees at national park units. It also would reinstate certain recreation fees that were repealed by the FLREA, such as entrance and use fees under the Land and Water Conservation Fund Act and admission permits for certain wildlife refuges.

Implementation

Policy Guidance

Interagency policy guidance on many aspects of FLREA is contained in a handbook issued in June 2006.⁷ The Implementation Handbook establishes common definitions of terms in the FLREA and overarching policy guidelines to implement the law. In addition, DOI and the FS jointly issued guidelines for public involvement in establishing new fee areas and informing the public of how recreation fee revenues are used.⁸ Further, each of the agencies has issued its own guidance on the intention, requirements, and implementation of the recreation fee program.⁹

Recreation RACs

The BLM and FS are using both pre-existing and new Recreation RACs to make recommendations on creating, altering, and eliminating recreation fees on both FS and BLM lands. The agencies are collaborating in their use of these advisory bodies by having both agencies use existing BLM Resource Advisory Councils in some areas, one existing FS Advisory Board, and five new FS-chartered Recreation RACs in other areas. Based on the recommendations of three state governors, there are no RACs in Alaska, Nebraska, and Wyoming.¹⁰ Forest Service Recreation RACs have 11 members: five represent recreation users; three represent outfitter-guides and environmental groups; and three represent state tourism, Indian tribes, and local governments. The BLM Recreation RACs have 15 members: five represent commercial land uses (e.g., livestock grazing, timber, oil and gas, and off-highway vehicles); five represent environmental organizations, historic and cultural interests, wildlife, wild horses and burros, and dispersed recreation; and five represent elected officials and governmental agencies, Indian tribes, academia, and the general public.

⁷ U.S. Dept. of Agriculture and U.S. Dept. of the Interior, *Interagency Implementation Handbook for Federal Lands Recreation Enhancement Act* (Washington, DC: June 2006), 23 pages. Hereafter referred to as the *Implementation Handbook*.

⁸ 70 *Fed. Reg.* 56622 (September 28, 2005).

⁹ Due to the limited participation in the fee program by Reclamation, in some cases the agency is excluded from the discussion in this report about the program's implementation.

Much of the information in this section on implementing the FLREA is derived from the *First Triennial Report*, the *Second Triennial Report*, FY2011 agency budget justifications, and a Government Accountability Office (GAO) report. The FY2011 agency budget justifications for the four DOI agencies are on the Department's website at <http://www.doi.gov/budget/>, while the FS budget justification is on the agency's website at <http://www.fs.fed.us/aboutus/budget/>. The GAO Report, *Recreation Fees: Agencies Can Better Implement the Federal Lands Recreation Enhancement Act and Account for Fee Revenues*, GAO-06-1016 (Washington, DC: September 2006), 111 pp., is available on the GAO website at <http://www.gao.gov/new.items/d061016.pdf> and is hereafter cited as the *September 2006 GAO Report*.

¹⁰ 71 *Fed. Reg.* 55416 (September 22, 2006) and Joint Press Release, U.S. Dept. of Agriculture and U.S. Dept. of the Interior, *Public Advisory Committees to Provide Recommendations on Federal Recreation Fees* (September 22, 2006).

Together, RAC members have provided economic, social, and environmental perspectives on fee issues. Under the FLREA, a RAC may make fee recommendations to the respective Secretary if supported by a majority of each category of members (as specified in the law) and if there is documented public support. Most agency fee initiatives have received positive recommendations after RAC review. However, agencies have reconsidered a number of fee proposals based on RAC input and sought additional public views on fee initiatives based on RAC suggestions. In other cases, RACs have assisted the agencies with preliminary or conceptual fee proposals and influenced how the agencies developed their proposals.

National Pass

The America the Beautiful – the National Parks and Federal Recreational Lands Pass applies to access to, and use of, recreation sites of the five participating agencies. In developing the pass, a key issue was how much to charge, and the agencies contracted with a university for a pricing analysis. The standard version of the pass became available to the general public in January 2007 for a cost of \$80. There are three other versions of the pass, for volunteers, seniors, and persons with disabilities. The standard annual pass is the most widely used. The volunteer pass is free to volunteers who work at recreation sites for 500 hours over any time period. Both the standard annual and volunteer passes are valid for a 12-month period, and cover entrance fees and standard amenity fees. The senior pass is a lifetime pass for those aged 62 or older, for a \$10 fee. The access pass is a free, lifetime pass for persons with permanent disabilities. Both the senior and access passes cover entrance fees and standard amenity fees, and discounts on some expanded amenity fees. All passes cover admission of the pass holder(s) and other passengers (in a non-commercial vehicle) at sites where fees are charged by the vehicle, and four adults at sites that charge per person fees. The America the Beautiful Pass supersedes a variety of passes issued by agencies previously, such as the National Parks Pass.¹¹ Legislation has been introduced in the 111th Congress (H.R. 1354) to make the pass available to veterans for a cost of \$10 annually.

The NPS administers the interagency pass program on behalf of the participating agencies. The agencies developed standard operating procedures to sell and accept the passes consistently. The procedures cover identification requirements, pass validation, and use of third-party vendors (such as REI) to sell passes, among other issues. In addition to third-party vendors, the passes are available from recreation sites that charge an entrance fee or a standard amenity fee, the U.S. Geological Survey (USGS) online or by phone, and other associations and groups.¹² One issue is how to distribute revenues from the sale of the pass among the agencies over the long term. In the short term, revenues from pass sales at sites remain with the agency that collects them. Revenues collected centrally, for instance through sales of passes on the Internet, are used for administrative costs of the program and repaying the NPS for startup costs of the new pass, with additional revenue split among the five agencies. In the future, the distribution of revenues from centralized sales will take into account use of the pass. How to track use of the pass, particularly at BLM and FS sites that may be remote and unstaffed, continues to be a challenge.

Fee Sites

The agencies conducted a detailed analysis of the extent to which sites charging recreation fees under the former Fee Demo Program met the criteria and prohibitions of the FLREA for charging

¹¹ These previously issued passes are valid until they expire. Information on, and purchase of, recreation passes under FLREA is available on the website of the U.S. Geological Survey at <http://store.usgs.gov/pass/>.

¹² Not every type of pass has been available through each type of provider.

entry, standard amenity, and expanded amenity fees. The agencies instructed units to make changes where necessary. The NPS and FWS made little change, as both agencies were authorized under Fee Demo to charge entrance fees and continue to have authority to charge entrance fees under FLREA. Currently, about half of the 392 NPS units charge an entrance fee, while about 35 of the 450 FWS refuges that are open to the public charge an entrance fee.¹³ These agencies also charge amenity fees at some sites. For instance, the FWS currently charges entrance or other fees (e.g., for hunting) under FLREA at 112 refuges or other locations.¹⁴

Most BLM areas were in compliance with the requirements of FLREA when it was enacted, and continue to charge fees as before. However, some adjustments were made. For instance, some sites added amenities, such as picnic tables, to be in compliance with FLREA provisions. BLM currently manages about 3,600 recreation sites, of which approximately 300 charge amenity fees. The FS made the most changes as a result of the FLREA. The agency initially dropped fees at 437 sites, including numerous trailheads and picnic areas, because they did not have the amenities required by the law. The FS currently manages about 17,500 developed recreation sites, of which 4,185 collect fees under the FLREA. Most of these sites are campgrounds.¹⁵ Taken together, a majority of these four agencies' sites are not charging a recreation fee.¹⁶

In determining entrance fees, the NPS is using a standardized fee structure nationwide. This structure groups national park units into four categories based on type of designation (e.g., national park, national battlefield, national seashore) and other factors. The same entrance fee is charged at each park unit in a category. For instance, for category 2 units, namely, national seashores, recreation areas, monuments, lakeshores, and historic parks, the entrance fee is \$7 per person, \$10 per motorcycle, \$15 per vehicle, and \$30 per annual pass.

The FWS typically charges daily entrance fees of \$5 per vehicle and \$15 for a refuge-specific annual pass. For particular activities, such as hunts, fees are based on a market analysis. FWS seeks consistency of fees within regions, based on related state and private fees. BLM sets fees based on the amenities available at recreation sites, using low, moderate, and high categories. The FS bases fees on local market rates and a variety of factors including amenities available, site condition, and operation and maintenance costs. The average fees at FS sites are approximately \$6 for day use and \$9 for overnight use.

FS use of high-impact recreation area (HIRA) designations for charging fees has been controversial. While the FLREA does not mention HIRAs, the agencies have agreed to define an HIRA as an area of concentrated recreational use that includes a variety of developed sites providing a similar recreation opportunity. Further, it is a contiguous area composed of places, activities, or special, natural, or cultural features that is the focal point of recreation and that has clear access points and boundaries.¹⁷ The FS views it as more convenient for users to pay fees for use of these areas rather than to pay separate fees at each of their sites. The agency notes that collections are used for upkeep of facilities in the areas. Some of the HIRAs have been criticized by recreationists as broad designations for large tracts of land lacking in the amenities required by the FLREA.

¹³ *Second Triennial Report*, p. 39.

¹⁴ This information, current as of August 19, 2009, is taken from the FWS website at http://www.fws.gov/refuges/pdfs/recFeeProgramStationsActivities_062005.pdf. Site visited on October 4, 2010.

¹⁵ Approximately another 2,000 FS sites charge other types of fees.

¹⁶ *Second Triennial Report*, pp. 39-40.

¹⁷ *Implementation Handbook*, p. 6.

The FS examined the use of fees at its HIRAs in 2007-2008, and expects to present its findings to the RACs. The FS currently is considering fee changes in some HIRAs and is developing new directives on these areas, which will be made available for public comment. The agency anticipates that some fee changes could result.

While the FLREA also applies to Reclamation, the agency is charging a fee under FLREA at only one site. The majority of Reclamation's 289 developed recreation sites are managed by partner organizations, and the agency concluded that these non-federally managed sites will not participate in the FLREA program. Other Reclamation recreation areas are managed by other federal agencies, and these agencies determine whether the areas charge fees under the FLREA. Of Reclamation's 289 developed recreation sites, 33 are managed exclusively by the agency.¹⁸ Reclamation determined that only six of these sites it manages directly would meet the criteria to charge amenity fees. In reviewing whether and to what extent these areas should participate, Reclamation examined whether the costs of implementing and participating in the program would exceed expected revenues. Reclamation also assessed its authority to charge recreation fees under another authority that was not repealed by the FLREA—the Federal Water Project Recreation Act.¹⁹ The agency concluded that it would not be cost effective for the other five qualifying sites to participate in the FLREA.²⁰

Recreation Fee Receipts

In FY2009, the five agencies collected a total of \$258.4 million in recreation receipts under the FLREA. The NPS takes in the most revenue, and the NPS and FS together collected more than 90% of the FY2009 revenues. Specifically, NPS collections were \$171.0 million, or 66% of the five-agency total, while the FS collected \$64.7 million, which was 25% of the total. The other agency collections were BLM, \$17.5 million (7%); FWS, \$4.8 million (2%), and Reclamation, \$0.5 million (<1%). **Table 1** below identifies the receipts for the agencies over the past three fiscal years.

Table 1. FLREA Receipts by Agencies, FY2007-FY2009
(in millions of dollars)

Agency	FY2007	FY2008	FY2009
NPS	\$168.9	\$172.0	\$171.0
FS	\$61.0	\$61.6	\$64.7
BLM	\$14.6	\$15.0	\$17.5
FWS	\$4.4	\$4.7	\$4.8
Reclamation	n/a ^a	\$0.2	\$0.5
Total	\$248.8	\$253.4	\$258.4

Source: Figures for FY2007 and FY2008 were derived from the *Second Triennial Report*. Figures for FY2009 were derived from the FY2011 agency budget justifications, except that the FS figure was provided from the USFS Budget Office.

a. Reclamation began collecting recreation fees under the FLREA in FY2008.

¹⁸ Another 9 recreation sites are managed by Reclamation and a partner.

¹⁹ 16 U.S.C. §§460l-12 et seq.

²⁰ *Second Triennial Report*, pp. 26-27.

The average cost to the four agencies of collecting recreation fees declined from 21% of gross fees in FY2002 to 15% in FY2009. The decline is attributed to technological improvements, increased revenue, and definitional changes, among other factors. The cost to each agency varied considerably during FY2009. Specifically, the cost to the BLM was 2%; to the FS, 9%; to the FWS, 15%; and to the NPS, 19%.²¹ The BLM cost is significantly lower because of the reliance on technology, rather than personnel, to collect fees. The NPS cost remains the highest in part because of the higher collection costs of many smaller park units. They tend to collect relatively little revenue or have more complex logistics (e.g., staffed entrance fee stations).²²

Use of Recreation Fee Revenues

The agencies have different procedures for selecting projects to be funded with FLREA revenues. For BLM, FWS, and FS, most projects are approved at the local units, usually within a few weeks of being suggested by unit staff. NPS projects are reviewed by NPS local units, regions, and headquarters, before submission for DOI or congressional approval. This process can take a year or more. While it may help ensure consistency with the FLREA and accountability in use of funds, the process also may delay the implementation of projects and contribute to balances of unobligated revenues.²³

Fees collected during a fiscal year, and carried over from previous years, are available for obligation by the agencies. The agencies have identified total recreation fees available for obligation in FY2009, and the amount that was obligated in FY2009. The agencies report having obligated FY2009 funds for a variety of purposes, including operation, maintenance, and capital improvement projects.²⁴

The NPS reports that, of \$441.0 million available for obligation in FY2009, \$222.6 million was obligated. Of those obligations, \$119.7 million (54% of total obligations) was for asset repairs and maintenance. This category is comprised of capital improvements, routine/annual maintenance, and deferred maintenance. Deferred maintenance, also called the maintenance backlog, is defined as maintenance that “was not performed when it should have been or was scheduled to be and which, therefore, is put off or delayed for a future period.”²⁵ A focus of Congress and the Administration over the past decade has been on quantifying and reducing agency maintenance backlogs. Another \$35.0 million (16%) of the NPS funds obligated went towards interpretation and visitor services, \$34.0 million (15%) was for the costs of collecting recreation fees, and the remaining \$33.9 million (15%) was for other purposes.

The BLM reports that, of \$28.6 million available for obligation in FY2009, \$16.7 million was obligated. The largest portion of the funds obligated—\$5.2 million (31% of total obligations)—

²¹ These percentages reflect the cost of collection relative to the total revenue collected in a fiscal year. The percentages on collection costs in the next section represent the cost of collection relative to the total obligations in a fiscal year.

²² *First Triennial Report*, pp. 58-59.

²³ *September 2006 GAO Report*, p. 8.

²⁴ Data for the three DOI agencies are included in the FY2011 agency budget justifications. Specifically, the NPS information is derived from the National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2011*, p. RecFee-4. The BLM information is derived from the Bureau of Land Management, *Budget Justifications and Performance Information, Fiscal Year 2011*, p. XI-7. The FWS information is derived from the Fish and Wildlife Service, *Budget Justifications and Performance Information, Fiscal Year 2011*, p. REC-2. Because the FY2011 Forest Service budget justification did not contain similar information, CRS sought and obtained data directly from the agency on April 2, 2010. These data are discussed here.

²⁵ This definition is taken from the Statement of Federal Financial Accounting Standards No. 6, p. 31, available on the website of the Federal Accounting Standards Advisory Board at <http://www.fasab.gov/pdffiles/sffas-6.pdf>.

was for activities including interpretation and visitor services. For asset repairs and maintenance, BLM obligated \$4.4 million (26%). Another \$2.8 million (17%) went towards law enforcement and recreation, and the remaining \$4.3 million (26%) was directed to other activities.

The FWS reports that, of \$10.1 million available for obligation in FY2009, \$4.3 million was obligated. Of those obligations, the FWS obligated \$1.6 million (37% of total obligations) on asset repairs and maintenance. Another \$1.2 million (28%) of the obligations was used for visitor services, while the remaining \$1.5 million (34%) was for other programs.

The FS reports that, of \$94.8 million available for obligation in FY2009, there were \$61.2 million in total expenditures.²⁶ The agency reports expenditures of \$23.6 million for “Facilities Maintenance,” which is 39% of total expenditures. Another \$14.1 million (23%) of expenditures was for visitor services, with \$11.4 million (19%) for fee management agreement and reservation services and the remaining \$12.1 million (20%) for other purposes.

Table 2 below identifies recreation fees available for obligation and obligated by the four agencies during FY2009. In the case of the FS, expenditures are noted.²⁷ The table specifies the amount of obligations for asset repairs and maintenance, including deferred maintenance, because of the congressional and administrative focus on this activity. For the four agencies, a total of \$574.4 million in recreation fees was available for obligation in FY2009. Of that amount, \$304.8 million was obligated by the agencies. Asset repairs and maintenance collectively comprised \$149.3 million (49%) of the obligations. This activity received the largest portion of total agency obligations in FY2009. Obligations for all other purposes were \$155.5 million (51%).

Table 2. Obligation of Recreation Fees, FY2009

(in millions of dollars)

Recreation Fees ^a	NPS	BLM	FWS	FS
Total Available for Obligation	441.0	28.6	10.1	94.8
Unobligated Balance Brought Forward and Recoveries	270.0	11.0	5.3	30.1
Fees Collected	171.0	17.5	4.8	64.7
Total Obligations^b	222.6	16.7	4.3	61.2
Facilities Routine/Annual Maintenance	4.2	3.7	0.8	n/a
Facilities Capital Improvement	15.5	.01 ^c	0.4	n/a
Facilities Deferred Maintenance	100.0	0.7	0.5	n/a
Subtotal Asset Repairs and Maintenance	119.7	4.4	1.6	23.6 ^d
Other ^e	102.9	12.3	2.7	37.6

Note: Totals may not add due to rounding.

- Reclamation is not included in this table due to the limited participation of the agency in the recreation fee program.
- The FS identifies these funds as expenditures rather than obligations.
- The amount is \$11,000.
- The FS identifies these funds as used for “Facilities Maintenance.”

²⁶ The FS reports expenditures rather than obligations. Thus, the FS figures are not directly comparable to the DOI data which are reported in obligations for the three agencies.

²⁷ Hereafter, the use of the term “obligated” is used to capture obligations by the three DOI agencies as well as expenditures by the Forest Service.

- e. This category covers a variety of activities that may include visitor services, law enforcement, habitat restoration, and administrative costs, among others.

Information on collection and obligation of recreation fees for other years, similar to that presented here for FY2009, is available in the interagency Triennial Report to Congress on the FLREA program.²⁸ Specifically, the report has data for FY2006-FY2008 for the participating agencies.

Two agencies, the NPS and FWS, have projected how they would spend their recreation fee revenues during the five-year period from FY2009 to FY2013.²⁹ Priorities for the two agencies include maintenance and visitor services. The BLM, FS, and Reclamation did not similarly publish five-year projections.

The NPS expects to dedicate the largest share of its funds to reducing the agency's backlog of deferred maintenance. Specifically, the NPS expects to spend a total of \$1.04 billion over five years (from FY2009 to FY2013), with \$425.0 million (41%) on deferred maintenance. Agencies report annual estimates of the deferred maintenance of their facilities. DOI estimates deferred maintenance for the NPS for FY2009 at between \$8.23 billion and \$12.11 billion, with a mid-range figure of \$10.17 billion.³⁰ Fifty-five percent of the total deferred maintenance was for roads, bridges, and trails; 19% was for buildings; and 26% was for other structures.

The NPS projects spending other portions of the \$1.04 billion as follows: \$200.0 million (19%) on visitor services, \$185.9 million (18%) on direct costs/costs of collection, \$72.5 million (7%) on non-deferred maintenance, \$70.0 million (7%) on habitat restoration, and \$82.0 million (8%) on other purposes.

The FWS anticipates spending \$28.4 million over the five-year period. The largest share, \$12.1 million (43%), would be used for visitor services. For deferred maintenance, the FWS projects spending \$5.4 million (19%) over five years. For FY2009, DOI estimates deferred maintenance for the FWS at between \$2.44 billion and \$3.59 billion. The FWS anticipates spending other portions of the \$28.4 million as follows: \$3.5 million (12%) for direct costs/costs of collection; \$2.8 million (10%) for non-deferred maintenance; \$1.7 million (6%) for administrative, overhead, and indirect costs; and \$3.0 million (11%) for other purposes.

Unobligated Balances

The recreation fee program historically has had a large balance of unobligated funds. These revenues accumulated under the former Fee Demo program as well as the current program under FLREA. Typically, all of the fees collected during a year are not spent during that year. Questions have arisen as to why the agencies have not used available monies more quickly. Reasons include a need to carry over funds for the next year's operations and for large projects; insufficient staff at some units to administer and implement projects; and the time needed for environmental analysis, design, and engineering.³¹

FY2009 marked the first year in which more than half of available recreation revenues were obligated by the four agencies. Annual obligations have increased from 20% of total funds available in FY1997, the outset of the former fee program, to 53% in FY2009. Also during this

²⁸ See the *Second Triennial Report*, pp. 49-53.

²⁹ *Second Triennial Report*, in particular p. 11 for the NPS and p. 14 for the FWS.

³⁰ Estimates of deferred maintenance for DOI agencies were provided by the DOI Budget Office on March 31, 2010. Estimates reflect only direct project costs in accordance with requirements of the Federal Accounting Standards Advisory Board.

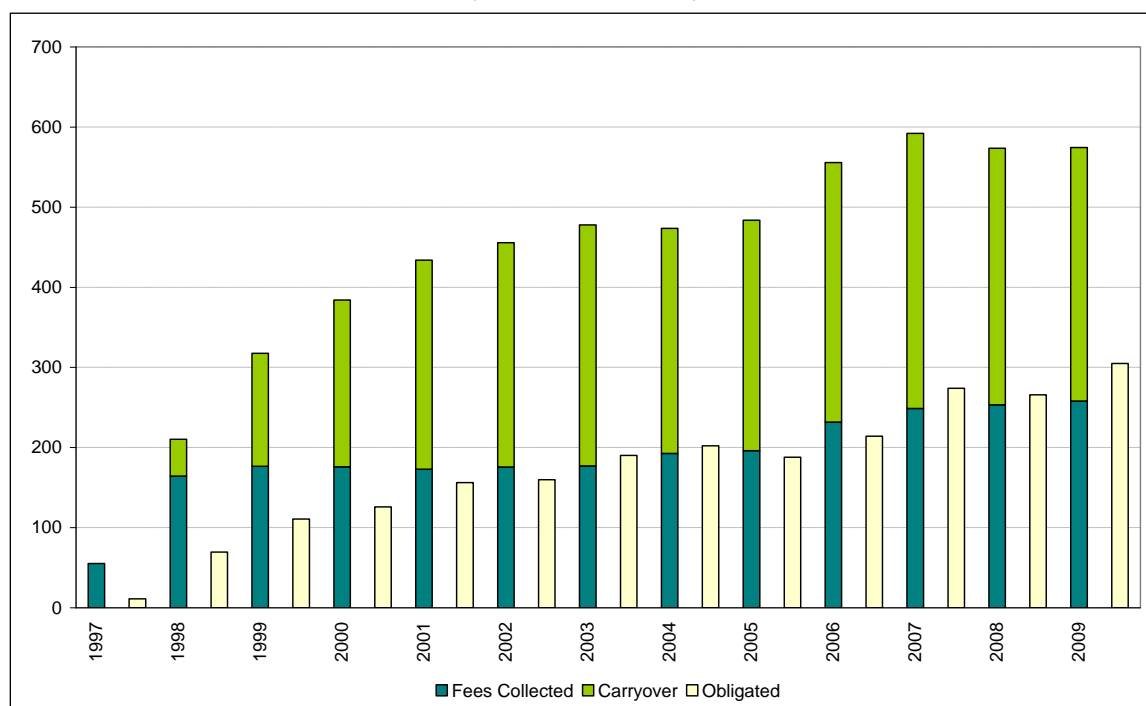
³¹ *September 2006 GAO Report*, pp. 53-56 and *First Triennial Report*, p. 59.

period, revenues and obligations have increased considerably in absolute terms. In FY1997, total funds available for obligation were \$55.3 million, of which \$11.0 million were obligated. In FY2009, \$574.4 million were available for obligation, of which \$304.8 million were obligated. That left a combined unobligated balance of recreation fees totaling \$269.6 million in FY2009—47% of all available revenue.

Figure 1 depicts the total recreation revenues available for obligation and the total obligated since the inception of the former Fee Demo in FY1997. For each fiscal year, the first bar shows the total funding available for obligation, comprised of the recreation fees collected during the fiscal year (the bottom part of the bar) and the unobligated balance of recreation fees carried over from the previous fiscal year (top part of the bar). The second bar shows the funding that was obligated in each fiscal year.

Figure 1. Recreation Fee Revenues and Obligations, FY1997-FY2009

(in millions of dollars)



Source: Figures for FY1997-FY2008 are from the *First Triennial Report* and the *Second Triennial Report*. Figures for FY2009 are from the FY2011 agency budget justifications.

Notes: For each fiscal year, the first bar represents funding available for obligation, comprised of the recreation fees collected during the fiscal year and carried over from prior years. The second bar represents the funding obligated. Given the limited participation of Reclamation in the FLREA program, the agency's funding is not reflected in the table.

The percent of recreation funds obligated by the four agencies increased from 46% in FY2008 to 53% in FY2009, primarily due to enhanced NPS efforts to reduce its large balance of unobligated funds.³² For instance, the agency implemented a Recreation Fee Comprehensive Plan covering all fee projects over five years. Park units provide annual updates to include a timeline for project

³² These actions, as outlined in this section, are described in the *Second Triennial Report*, p. 4 and the National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2011*, pp. RecFee-2, 3.

completion. For the first time in FY2009, NPS obligated more than half of the monies available for obligation (50.5%). An NPS goal is to reduce its unobligated balance further, from \$218.4 million in FY2009, to approximately \$150 million by September 30, 2010, and \$80 million by January 1, 2011.³³ To achieve this goal, the agency is limiting the percent of revenue that park units can carry over from year to year.³⁴ Parks that do not achieve the carryover standard will be penalized. For instance, as of January 1, 2011, park units will lose their carryover funds if the unobligated carryover balance exceeds 35% of annual recreation revenues.

The NPS also is taking actions to speed up the use of the 20% of recreation revenues available to be used agency-wide. For example, funds are to be allocated to projects by December 31 each year. If the funds are not fully obligated by December 31 of the following year, they will be reallocated to other projects.

The FWS is the only one of the four agencies that obligated less than half of the funds (42%) available during FY2009. The agency has issued guidance for sites to increase the rate of obligations to at least 50%, and has projected obligations for FY2010 and FY2011 at between 62% and 63%.³⁵ BLM obligated 58% of available FY2009 funds, while the FS had the highest rate of obligation at 65%.

Author Information

Carol Hardy Vincent
Specialist in Natural Resources Policy

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³³ Information on the extent to which this is being achieved is not publically available.

³⁴ The policy applies to park units collecting over \$0.5 million in annual fees, beginning January 1, 2011. NPS regional directors have discretion to apply the policy to park units collecting less than that amount.

³⁵ Information on the extent to which this is being achieved is not publically available.